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RECENT CASES.

CARRIERS—LOSS OF MANUSCRIPT—MEASURE OF DAMAGES.—SOUTHERN EXPRESS COMPANY V. OWENS, 41 SOUTHERN REP. 752 (ALABAMA).—*Held*, that in the absence of evidence of the market value of a lost manuscript it is proper to permit the plaintiff to testify as to the amount of time he had spent in the preparation of the manuscript and what he considered it worth, on the ground that where an article is so unusual in character that the market value cannot be determined, damages must be ascertained in some rational way.

CARRIERS—PASSENGERS—INJURIES—NEGLIGENCE—PROXIMATE CAUSE.—SNYDER V. COLORADO SPRINGS & C. C. D. RY. CO., 85 PACIFIC REP. 686 (COLO.). A passenger on a crowded car stood near the door with his hand resting on the door jamb. There were people between him and the door and some on the steps. The conductor in pushing his way through the crowd pressed the passenger against a third person sitting in a seat who gave the passenger a push, throwing him from the car.—*Held*, that the proximate cause of the injury was, as a matter of law, the action of the third person, for which the carrier was not liable.

The sole question here to be determined is,—what was the proximate cause of the accident? If the action of the conductor was the proximate cause then the defendant is liable. *Bouvier's Law Dict.*, Vol. II, page 790. defines proximate cause as follows: "That which, in a natural and continuous sequence, unbroken by any new cause, produces an event and without which the event would not have occurred." The authorities are uniform on the point of holding the proximate cause liable for the injury, *Cooley on Torts*, 70. But they differ in the application of the rule, 93 U. S. 130. To render a railway company liable for injuries to one passenger by another, it must appear that the company was negligent in failing to put the passenger, actually doing the injury, off the car, *Louisville & N. R. Co. v. McEwan*, 31 S. W. 465. But the conductor must have had notice or have reasonably foreseen that the passenger doing the injury was dangerous, *Spohn v. Mo. Pac. Ry. Co.*, 87 Mo. 74. Would it be reasonable here for the conductor to foresee that the passenger would become irritated and push the other off the car? But a different view must be entertained if the original act of the conductor was wrongful. In other words, if he puts in motion a train of events which finally culminated in the accident, *Clark v. Chambers*, 3 Q. B. Div. 327; *Scott v. Shepherd*, 3 Wils. 403. (The latter being the famous and oft quoted "lighted squib case"). However, the decision should be consistent with principles of rational justice, *Baltimore & Potomac R. R. Co. v. Reaney*, 42 Md. 117. The case at hand, considering all the facts, seems to be rightly decided. *Adrian A. Pierson, (Ed.).*

CARRIERS—CONTRIBUTORY NEGLIGENCE—ALIGHTING FROM MOVING TRAIN.—TEXAS & P. RY. CO. V. WHITELY, 96 S. W. 108 (TEX.).—*Held*, alighting from a moving train is not contributory negligence *per se*.

Whether a person who alights from a moving train is guilty of contributory negligence is a question of fact for the jury, depending on attendant circumstances. *Little Rock & Ft. S. Ry. Co. v. Atkins*, 46 Ark. 423; *Chicago*

City Ry. Co. v. Mumford, 97 Ill. 560; *Galveston, H. & S. F. Ry. Co. v. Smith*, 59 Texas 406. And one so alighting from a moving train may recover for an accident to which his act does not contribute. *Van Ostrom v. N. Y. Cent. & H. R. R.R. Co.*, 35 Hun. 590. A passenger alighting from a moving train at direction of brakeman is not as matter of law guilty of contributory negligence where there was no obvious danger. *Jones v. B. & O. R. Co.*, 21 D. C. 346; *Delaware & H. Canal Co. v. Webster*, 6 Atl. 841. But if conductor ordered a passenger to leave train while in motion the company would be liable even though the passenger was guilty of negligence. *R. R. Co. v. Singleton*, 66 Ga. 252.

COMMERCE—INTERSTATE COMMERCE—INTOXICATING LIQUORS.—EX PARTE MASSEY, 92 S. W. 1086 (TEXAS).—*Held*, that a statute making it a misdemeanor "to solicit an order for the sale" of intoxicating liquors within local option districts is a violation of the interstate commerce clause of the Federal Constitution.

When liquor is sold as an import from another state and Congress has clearly the power to regulate, yet as Congress has made no regulation on the subject, the traffic may be lawfully regulated by state as soon as it is landed in its territory. *License Cases*, 5 How. 504 and 586 (N. H., R. I., Mass.). This case was overruled by *Leisy v. Hardin*, 135 U. S. 100. Whenever the law of a state amounts essentially to a regulation of commerce among the states, as it does when it inhibits directly or indirectly the receipt of a commodity before it has ceased to become an article of trade between one state and another, it comes in conflict with the interstate commerce clause of the Constitution and is void. *Leisy v. Hardin*, *supra*. The right to regulate the sale of a commodity after it has been brought into the state does not carry with it the power to prevent its introduction by transportation from another state. *Bowman v. Chicago, etc., Ry. Co.*, 125 U. S. 465, 500 (Ia.). The sale of intoxicating liquors is a legitimate subject of trade and interstate commerce, and is subject, as such, to no restrictions unless the same can be justified under the police power of the state. *McCulloch v. Brown*, 23 L. R. A. 410. Under prosecution under final statute for soliciting sale of liquors *held*, intoxicating liquors are a legitimate subject of commerce and burdens thereon cannot be justified under the police power of the state. *Ex parte Loeb*, 72 Fed. 657 (S. C.). In New Hampshire a similar statute was declared void as being a regulation of interstate commerce without the consent of Congress. *Durkee v. Moses*, 23 Atl. 793 (N. H.).

COMMON CARRIER—LIABILITY OF OWNER OF PASSENGER ELEVATOR.—EDWARDS V. MANUFACTURER'S BUILDING CO., 61 ATL. REP. 446 (R. I.).—*Held*, that a landlord who maintains an elevator in his private building for the use of tenants and their employees and customers is not a common carrier, and hence is not bound to the same degree of care required of a common carrier, but only to exercise reasonable care for the safety of persons using the elevator, thus following the doctrine as laid down by the New York courts. *Griffin v. Manice*, 59 N. E. Rep. 925.

CONSTITUTIONAL LAW—IMPAIRMENT OF OBLIGATION OF CONTRACT.—KNOXVILLE WATER COMPANY V. MAYER OF CITY OF KNOXVILLE, 26 SUPREME COURT REP. 224.—*Held*, that an agreement by a municipality to give a water company an exclusive franchise of thirty years, as against any other person